



Gender Analysis of Russian Legal Reform

Moscow Center for Gender Studies

Despite the fact that the Russian Constitution mandates equal rights and opportunities for women and men, women face increased discrimination and hardships in Russia's current political and economic transition. Female-headed households are almost four times as likely to be poor as their male counterparts (U.S. Department of Commerce 1998). Seventy percent of the unemployed are women, and those women who do work are concentrated in low-paying jobs (Baskakova 1998). Further, domestic violence is on the rise, as is pornography and prostitution, increasing women's vulnerability to abuse.

The process of transforming a highly centralized economy into a market economy has had enormous impact on state funding for maternal and infant health, income support, and child welfare. However, the gender impacts of these changes have not been assessed. Thus, while it appears that newly implemented laws, policies, and administrative decisions, including budgetary allocations, may have created a new pattern of discrimination against women, there has been no empirical data that describe the actual effects.

To address this informational gap, from February 1997 to October 1998, the Moscow Center for Gender Studies (MCGS) undertook a gender analysis of current and pending Russian laws and state programs in certain key areas. MCGS is a nongovernmental organization (NGO) founded in 1990 to conduct research on gender discrimination in Russian society, and to explore methods for incorporating gender concerns into the rapidly growing civil society.

Objectives

The overall goal of the project was to improve the gender sensitivity of the legislative process in Russia. The specific objectives were to:

- Identify the gender implications of current and pending Russian

law and state programs in the areas of employment, reproductive health, mass media, and forced migration;

- Raise the awareness of public officials, civil society organiza-

tions, the media, and academics to the need for gender-sensitive legal reform;

- Promote government action to institutionalize gender analysis in the legal process.

Methodology

The gender analysis included the following steps:

- *Problem statement development* based on statistical data available

through the United Nations Women's Indicators and Statistics Database (WISTAT), national-level data (from the State Statistical Committee of the Russian Federa-

tion), and subnational-level data (through NGOs and others)¹;

- *Review of existing literature and data* per study area;

¹ After consulting with the Department for Economic Analysis of Public Policy, Ministry of Economic Affairs, the research team found that it would not be possible to undertake a cost-benefit analysis of public expenditures within the different study areas. This was less a result of gaps in the data than in the lack of human capacity to undertake this type of political analysis.

- ▶ *Description of institutional mechanisms* responsible for development and implementation of legislation (i.e., “gender mapping of the state”);
- ▶ *Identification of data sources of current and pending legislation* including collections of laws, on-line sources, and key informants;
- ▶ *Analysis of federal and local legislation* comparing them to international norms and standards, such as the International Labor Organization’s (ILO) Conventions and the Equal Opportunity Policies of the Fourth Action Program of Equal Opportunities of the European Union;
- ▶ *Evaluation of the effectiveness of the laws’* practical application or enforcement (review of socioeconomic and institutional contexts);
- ▶ *Development of recommendations for legislative actions* including modification of current laws, policies, or fiscal resource allocations; or suggestions of new programs for implementation, enforcement, and monitoring of existing legislation;
- ▶ *Publication of findings and engaging key persons in dialogue* to prompt action.

Results

Gender Analysis of Legislation

Overall, the gender analysis suggested that the social and private costs incurred by reductions in public sector employment and the shrinking federal budgetary allocations for social services are affecting women disproportionately.

In fact, although Russia had the highest labor force participation of women in the world in the late 1980s with more than 90 percent of women employed, this had dropped to 75 percent by 1996 and continues to fall (Baskakova 1998). Based on a review of almost 50 legal documents related to women’s employment policy, Baskakova found that the current declining labor market position of women was largely the result of gender-blind legislation and sex discrimination. For instance, there is little control over hiring and firing policies that are discriminatory in practice. Further, the lack of gender-sensitive legislation permits the unstated and unofficial desire to strengthen traditional family values and raise the birthrate—each having clear implications for women who prefer to, or, indeed, must work.

Ballaeva looked at a wide variety of laws that regulate pregnancy, birth, and abortion. Russian women have

one of the highest abortion rates in the world, and the level is increasing among teenagers. The large number of unplanned and unwanted pregnancies are a result of a lack of information on family planning options, insufficient access to contraceptive devices (only 25 percent of women use contraception and there is no contraceptive production industry in Russia), and poor gynecological care (Ballaeva 1998). The review of 25 legal documents regulating reproductive rights, the first of its type in Russia, found that although abortion is available from the state, health clinic funding has decreased dramatically making it prohibitive for many interested women.

Not only is women’s reproductive health jeopardized by official (and unofficial) gender-blind policies and legislative actions, the lack of legislation to protect women from exploitation in the media has contributed to increased pornographic literature. Of the 90 laws relating to this issue reviewed in *Mass Media*, none cover the advertisement of sex services, negative images of women in the media, or public displays of pornography (Voronina 1998).

The MCGS analysis of legislation related to migration sheds additional

light on the tenuous nature of women’s lives in post-Soviet Russia (Kosmarskaya 1998). Gender analysis found that although migrant women and men are protected equally under the law, women are more likely to be disadvantaged because men are seen predominantly as more important to the household. The study concluded that improvements in the lives of female migrants has less to do with revising legislation than with ensuring that existing laws be enforced.

Public Advocacy Campaigns

Results of the aforementioned gender analyses were published in four booklets and in three policy papers.² The data and reports were used to raise the awareness of public officials, members of the press and civil society organizations, and academics about the gender inequities in the legislative process and outcomes. Roundtables and workshops on each of the four theme areas—employment, reproductive health, mass media, and migration—were organized. Both print and broadcast media were used for wide dissemination; appearances of the research team on news programs and talk shows reached audiences of up to 40 million Russians.

² Kochkina, E. 1998. “Electoral Legislation”; Kochkina, E. and N. Abubikirova. 1998. “Gender Analysis and Overview of Russian Legislation”; Mezentseva, E. 1998. “Social and Gender Equality as Objectives for Transitional Social Policy.” (All available from MCGS.)



Institutionalization

During the project period, the Russian government changed three times and the process of institutional change started over each time with new ministers and legislators. In coordination with the Russian Women's Consortium, MCGS prepared a list of gender analysis experts for one of the Deputy Prime Ministers, who agreed to finance analysis into other topic areas. Although a later Minister dropped this, the current Minister of Social Issues has committed to providing this support. An initiative to establish two positions for gender specialists in the Council of the Federation (the upper chamber of the Russian Parliament) is still under consideration.

The project made great strides in forging linkages with elected officials on the Women's Policy Committees at the central level, as well as various regional commissions. In addition, one of MCGS's directors was invited to create a university course on "Gender Studies and Public Policy." With support from the Open Society Institute's Network Women's Program, the Center will also provide a gender analysis program for fellows from Russian universities and from other Commonwealth of Independent States' (CIS) countries.

MCGS established ties and collaborated with various international multilateral agencies as well. For

instance, the project team contributed to the development of gender analysis training organized by the United Nations Development Program (UNDP) and the Organization on Security and Cooperation in Europe (OSCE) for five Central Asian countries: Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan.³ Further work will be conducted on a gender analysis of structural adjustment policies in the region. Finally, the project director was asked to be a member of the World Bank's External Gender Consultative Group.

Conclusions

Although discrimination against women remains pervasive, the project was successful in collecting a credible set of data that could be used to mobilize women's organizations and other influential bodies around gender issues. In addition, members of the research team directly and indirectly contributed to the drafting of several bills and amendments.⁴ The research team concluded that the State should make more effort to engage the growing women's movement in the development, promotion, and monitoring of gender-sensitive and gender-inclusive legislative processes in Russia.

Recommendations and Lessons Learned

The following recommendations came out of the expert studies:

► Amend existing labor codes.

The Russian Labor Legislation should be amended in order to make it gender-sensitive and bring it in line with the 1981 ILO Convention on workers with families.⁵ Further, the implementation of existing anti-

discrimination articles of the Labor Code should be enforced by the Russian Labor Inspection.

► Ensure women's access to financial and other resources.

Legislation that regulates property rights in the area of family and marital relations should be revised to ensure financial protection (in

the case of divorce) for women who provided unpaid domestic responsibilities. Further, the law, budgetary allocations, and other administrative actions by public sector agencies should promote women's full access to education and training opportunities.

³ In addition, state officials and NGO leaders from Belarus, Kazakhstan, and Kyrgyzstan requested gender analysis training directly from MCGS.

⁴ A few gender-inclusive bills were passed by the State Duma—the most important being the Legal Framework on Equal Rights and Equal Opportunities, which was passed in November 1997.

⁵ Convention (no. 156) concerning Equal Opportunities and Equal Treatment for Men and Women Workers: Workers with Family Responsibilities.

► **Change and enforce reproductive health legislation.** Laws should be approved legalizing women's, and men's, right to contraception and their access to the full range of family planning services. Further, the General Prosecutor should enforce laws related to women's rights during pregnancy, childbirth, and post-partum.

► **Encourage a mass media that is accessible but responsible.** Legislation on mass media should be modified to oblige all mass media to comply with the principles of freedom of speech, pluralism, observance of human rights, and equal rights for men and women. MCGS recommends enactment and enforcement of bills protecting women from pornography in the mass media.

► **Create gender-sensitive indicators of migrants.** To ensure that women migrants' issues, needs, and problems are made visible, the Federal Migrant Services (FMS) should increase the number of gender-sensitive indicators that are used to ensure the social protection of this vulnerable group (e.g., to address migrants' housing needs, medical

assistance, and opportunities for establishing small enterprises).

► **Use a human rights framework.** A national policy supportive of the Constitutional Article on Equal Rights and Equal Opportunities for Women and Men with legal guarantees of sufficient financial resources should be articulated, and monitoring systems set in place to ensure compliance. With such a policy in place, every legislative action could be brought in line with the intention expressed in the Beijing Platform for Action and other international documents that women's rights are human rights.

The following lessons can be applied outside of the Russian context:

► **As signatories to international conventions, governments should create gender-disaggregated databases.** Government statistics should be a powerful mechanism for the development, implementation, monitoring, and modification of laws and policies that are gender-sensitive. Governments that have the means to collect, analyze, and report data, but are not doing so, are shirking their responsibility as signatories to

international covenants, such as the United Nations Convention on the Elimination of All Forms of Discrimination against Woman (CEDAW).

► **Institutionalization of gender analysis requires integration.** Placing an individual or a set of individuals strategically in institutions may only have minimal lasting effects. Institutionalization of gender analysis requires policies and procedures that will ensure that gender analysis is fully integrated throughout the organization—i.e., a critical mass of knowledgeable and skilled human resources and the requisite internal mechanisms and financial support.

► **Civil society has critical roles to play.** While national governments have critical roles in ensuring gender equity, NGOs can serve as the impartial, independent eyes on the governmental process and outcomes. In the case of legislative action, they can suggest gender-sensitive language, monitor compliance, and suggest modifications. Partnerships between public sector institutions and civil society should be encouraged and resources set aside to operationalize these collaborative efforts.

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